

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 19

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

AN ACT

RELATING TO ANIMALS; CREATING THE CRIME OF COMPANION ANIMAL
HOARDING; PROVIDING DEFINITIONS; PROVIDING FOR SEIZURE,
DISPOSITION AND FORFEITURE OF HOARDED COMPANION ANIMALS;
PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Criminal Code is enacted
to read:

"NEW MATERIAL COMPANION ANIMAL HOARDING-- PENALTIES. --

A. As used in Sections 1 through 5 of this act,
"companion animal" means a domesticated animal, excluding fish,
that a reasonable person would consider a pet or that is
considered by the owner to be a pet.

B. Companion animal hoarding consists of a person:

(1) possessing over fifteen companion animals;

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underscored material = new
[bracketed material] = delete

1 (2) failing to provide necessary nutrition to
2 the companion animals;

3 (3) failing to shelter the companion animals
4 in a sanitary environment;

5 (4) failing to provide necessary veterinary
6 care to the companion animals; and

7 (5) displaying a disregard for the conditions
8 under which the companion animals are living.

9 C. Whoever commits companion animal hoarding is
10 guilty of a petty misdemeanor, and shall be sentenced pursuant
11 to the provisions of Section 31-19-1 NMSA 1978.

12 D. Upon a conviction for companion animal hoarding,
13 the court may order that the offender is precluded from owning,
14 harboring or having custody or control of companion animals or
15 from conspiring with others to maintain or create a collection
16 of companion animals on the offender's behalf for a period of
17 time that the court deems reasonable.

18 E. The provisions of this section do not preclude
19 the provisions set forth in Chapter 77 NMSA 1978 from
20 applying. "

21 Section 2. A new section of the Criminal Code is enacted
22 to read:

23 " [NEW MATERIAL] SEIZURE OF COMPANION ANIMALS--NOTICE. --

24 A. A peace officer or an animal control officer who
25 has reasonable cause to believe that the life or health of

1 companion animals are endangered due to companion animal
2 hoarding may apply to the district court, magistrate court or
3 the metropolitan court in the county where the companion
4 animals are located for a warrant to seize the companion
5 animals.

6 B. Except as provided in Subsection E of this
7 section, if the court finds probable cause that companion
8 animal hoarding is occurring, the court shall issue a warrant
9 for the seizure of the companion animals. The court shall also
10 schedule a hearing on the matter as expeditiously as possible
11 within ten days unless good cause is demonstrated by the state
12 for a hearing at a later time. The court may authorize
13 individuals to care for, treat and attempt to restore the
14 health of the companion animals.

15 C. Written notice of the time and location of the
16 hearing and notice of the time limit imposed in Subsection B of
17 this section shall be provided to the person charged with
18 companion animal hoarding. The court may order publication of
19 the notice of the hearing in a newspaper closest to the
20 location of the seizure if the person charged cannot be found
21 with prudent effort.

22 D. If the person possessing the companion animals
23 cannot be determined, a written notice regarding the
24 circumstances of the seizure shall be conspicuously posted
25 where the animals are seized at the time the seizure occurs.

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1 E. If a court finds probable cause that companion
2 animal hoarding is occurring, the court may order the person
3 charged with companion animal hoarding to provide necessary
4 food, water, shelter and care for the companion animals that
5 are the basis of the charge until the charges against the
6 person are adjudicated. The court may authorize individuals to
7 care for, treat and attempt to restore the health of the
8 companion animals. The court may also order a peace officer or
9 an animal control officer to make regular visits to the home of
10 the person charged with companion animal hoarding to ascertain
11 if the companion animals are receiving necessary food, water,
12 shelter and care until the charges against the owner are
13 adjudicated. At any time, a peace officer or an animal control
14 officer may apply for a warrant to seize the companion animals
15 pursuant to Subsection A of this section if the peace officer
16 or animal control officer articulates probable cause that the
17 companion animals are not receiving the necessary court-ordered
18 food, water, shelter and care."

19 Section 3. A new section of the Criminal Code is enacted
20 to read:

21 "NEW MATERIAL] DISPOSITION OF SEIZED COMPANION ANIMALS. --

22 A. If the court finds that the person charged is
23 not committing companion animal hoarding, the court shall
24 return the companion animals to that person.

25 B. Upon conviction, the court shall place the

1 companion animals for adoption with an animal shelter or animal
2 welfare organization or provide for the humane euthanasia of
3 the companion animals.

4 C. In no event shall the person charged with
5 companion animal hoarding be permitted to adopt the seized
6 companion animals following a conviction of companion animal
7 hoarding.

8 D. Actions necessary for the care and treatment of
9 companion animals by an individual who is authorized by the
10 court to care for companion animals, to treat companion animals
11 or to attempt to restore companion animals to good health shall
12 not constitute a basis for civil or criminal liability and the
13 individual taking the actions is immune from civil or criminal
14 liability for his actions. "

15 Section 4. A new section of the Criminal Code is enacted
16 to read:

17 "[NEW MATERIAL] FORFEITURE. -- Companion animals seized from
18 a person who has been convicted of companion animal hoarding
19 are subject to forfeiture, and the provisions of the Forfeiture
20 Act apply to the seizure, forfeiture and disposal of the
21 animals. "

22 Section 5. A new section of the Criminal Code is enacted
23 to read:

24 "[NEW MATERIAL] COSTS. --

25 A. At the hearing conducted pursuant to Subsection

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1 B of Section 2 of this act, the person charged with hoarding
2 companion animals shall post a bond or other adequate financial
3 assurance acceptable to the court to cover the cost of boarding
4 the seized companion animals and all necessary veterinary
5 examinations and care provided to the seized companion animals
6 housed at an animal shelter or animal welfare organization
7 during the pendency of the proceedings.

8 B. In the absence of a conviction, the bond or
9 other adequate financial assurance acceptable to the court
10 shall be returned to the person charged and the seizing agency
11 shall bear the costs of boarding the companion animals and all
12 necessary veterinary examinations and care of the companion
13 animals during the pendency of the proceedings.

14 C. Nothing in this section shall preclude a person
15 charged with companion animal hoarding from voluntary,
16 permanent relinquishment of any companion animals to animal
17 control or an animal shelter in lieu of posting a bond or other
18 adequate financial assurance. Voluntary relinquishment has no
19 effect on any proceedings filed against a person charged with
20 companion animal hoarding. "

21 Section 6. EFFECTIVE DATE. --The effective date of the
22 provisions of this act is July 1, 2003.